

**PENALTIES FOR VIOLENT CRIME IN
PRESENCE OF A CHILD**

2010 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill modifies the Criminal Code to provide graduated penalties for committing a violent criminal offense in the presence of a child younger than 14 years of age.

Highlighted Provisions:

This bill:

- ▶ provides a class A misdemeanor penalty for a person who, while in the presence of a child:
 - commits or attempts to commit criminal homicide against a third party; or
 - intentionally causes or attempts to cause serious bodily injury to a third party or uses a dangerous weapon or other means or force likely to produce death or serious bodily injury against a third party;
- ▶ provides for a class B misdemeanor penalty for a person who commits any other violent criminal offense in the presence of a child;
- ▶ requires the court to order a person who commits a violent offense in the presence of a child to pay restitution for any necessary counseling for the child or children who were present when the offense was committed, unless the court states on the record why the court finds the restitution would not be appropriate;
- ▶ provides that a charge of committing a violent criminal offense in the presence of a child is separate and distinct from a charge of domestic violence when the victim is the cohabitant and specifies that either or both charges may be filed by the prosecutor;
- ▶ provides that a person who commits a violent offense in the presence of a child when more than one child is present is guilty of one violation regarding each child who is present when the offense occurred; and
- ▶ provides definitions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

76-3-203.10, Utah Code Annotated 1953*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **76-3-203.10** is enacted to read:**76-3-203.10. Violent offense committed in presence of a child -- Penalties****--Restitution.**(1) As used in this section:(a) "In the presence of a child" means:(i) in the physical presence of a child younger than 14 years of age; or(ii) having knowledge that a child younger than 14 years of age is present and may see or hear the commission of a violent criminal offense.(b) "Violent criminal offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt to commit a criminal offense involving violence or physical harm.(2) A person commits a violent criminal offense in the presence of a child if the person:(a) commits or attempts to commit criminal homicide, as defined in Section 76-5-201, against a third party in the presence of a child;(b) intentionally causes or attempts to cause serious bodily injury to a third party or uses a dangerous weapon, as defined in Section 76-1-601, or other means or force likely to produce death or serious bodily injury, against a third party in the presence of a child; or(c) under circumstances not amounting to a violation of Subsection (2)(a) or (b), commits a violent criminal offense in the presence of a child.(3) (a) A person who violates Subsection (2)(a) or (b) is guilty of a class A misdemeanor.

63 (b) A person who violates Subsection (2)(c) is guilty of a class B misdemeanor.

64 (4) In addition to any other penalty, the court shall order a person who violates
65 Subsection (2) to pay restitution for any necessary counseling for the child or children who
66 were present when the violation was committed, unless the court states on the record reasons
67 why the court finds the restitution would not be appropriate.

68 (5) (a) A charge under this section is separate and distinct from, and is in addition to, a
69 charge of domestic violence when the victim is the cohabitant.

70 (b) Either or both charges may be filed by the prosecutor.

71 (6) A person who commits a violation of Subsection (2) when more than one child is
72 present is guilty of one violation of Subsection (2) regarding each child who is present when
73 the offense occurred.

Legislative Review Note
as of 5-15-09 7:02 AM

Office of Legislative Research and General Counsel